

1 AN ACT
2 RELATING TO INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND;
3 CHANGING THE AMOUNT AUTHORIZED FOR INVESTMENT IN FILMS
4 PRODUCED IN NEW MEXICO; PROVIDING THE STATE INVESTMENT
5 OFFICER WITH AUTHORITY TO PURCHASE FILM PRODUCTION TAX
6 CREDITS FROM ELIGIBLE NEW MEXICO FILM PROJECTS; DECLARING AN
7 EMERGENCY.

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

10 Section 1. Section 7-27-5.26 NMSA 1978 (being Laws
11 2000 (2nd S.S.), Chapter 6, Section 2, as amended) is
12 amended to read:

13 "7-27-5.26. INVESTMENT IN FILMS TO BE PRODUCED IN NEW
14 MEXICO. --

15 A. No more than two and one-half percent of the
16 market value of the severance tax permanent fund may be
17 invested in New Mexico film private equity funds or a New
18 Mexico film project under this section.

19 B. If an investment is made under this section,
20 not more than seven million five hundred thousand dollars
21 (\$7,500,000) of the amount authorized for investment
22 pursuant to Subsection A of this section shall be invested
23 in any one New Mexico film private equity fund or any one
24 New Mexico film project.

25 C. The state investment officer shall make

1 investments pursuant to this section only upon approval of
2 the state investment council after a review by the private
3 equity investment advisory committee and the New Mexico film
4 division of the economic development department. The state
5 investment officer may make debt or equity investments
6 pursuant to this section only in New Mexico film projects or
7 New Mexico film private equity funds that invest only in
8 film projects that:

9 (1) are filmed wholly or substantially in
10 New Mexico;

11 (2) have shown to the satisfaction of the
12 New Mexico film division that a distribution contract is in
13 place with a reputable distribution company;

14 (3) have agreed that, while filming in
15 New Mexico, a majority of the production crew will be
16 New Mexico residents;

17 (4) have posted a completion bond that has
18 been approved by the New Mexico film division; provided that
19 a completion bond shall not be required if the fund or
20 project is guaranteed pursuant to Paragraph (5) of this
21 subsection; and

22 (5) have obtained a full, unconditional and
23 irrevocable guarantee of repayment of the invested amount in
24 favor of the severance tax permanent fund:

25 (a) from an entity that has a credit

1 rating of not less than Baa or BBB by a national rating
2 agency;

3 (b) from a substantial subsidiary of
4 an entity that has a credit rating of not less than Baa or
5 BBB by a national rating agency;

6 (c) by providing a full, unconditional
7 and irrevocable letter of credit from a United States
8 incorporated bank with a credit rating of not less than A by
9 a national rating agency; or

10 (d) from a substantial and solvent
11 entity as determined by the state investment council in
12 accordance with its standards and practices; or

13 (6) if not guaranteed pursuant to Paragraph
14 (5) of this subsection, have obtained no less than one-third
15 of the estimated total production costs from other sources
16 as approved by the state investment officer.

17 D. The state investment officer may purchase at
18 a discount, from an eligible New Mexico film project, up to
19 eighty percent of an expected and estimated film production
20 tax credit available to a film production company pursuant
21 to the provisions of Section 7-2F-1 NMSA 1978. The New
22 Mexico film division of the economic development department
23 shall determine the estimated amount of a film production
24 tax credit. The state investment council shall establish
25 guidelines for the state investment officer's initiation of
a purchase and the terms of the purchase.

1 E. As used in this section:

2 (1) "committed capital" means the sum of
3 the fixed amounts of money that accredited investors have
4 obligated for investment in a New Mexico film private equity
5 fund, which fixed amounts may be invested in that fund in
6 one or more payments over time;

7 (2) "film project" means a single media or
8 multimedia program, including advertising messages, fixed on
9 film, videotape, computer disc, laser disc or other similar
10 delivery medium from which the program can be viewed or
11 reproduced and that is intended to be exhibited in theaters;
12 licensed for exhibition by individual television stations,
13 groups of stations, networks, cable television stations or
14 other means; or licensed for the home viewing market; and

15 (3) "New Mexico film private equity fund"
16 means any limited partnership, limited liability company or
17 corporation organized and operating in the United States
18 that:

19 (a) has as its primary business
20 activity the investment of funds in return for equity in
21 film projects produced wholly or partly in New Mexico;

22 (b) holds out the prospects for
23 capital appreciation from such investments; and

24 (c) accepts investments only from
25 accredited investors as that term is defined in Section 2 of

1 the federal Securities Act of 1933, as amended, and rules
2 promulgated pursuant to that section."

3 Section 2. EMERGENCY.--It is necessary for the public
4 peace, health and safety that this act take effect
5 immediately. _____